
By: **Delegate Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State Police - Facility Security**

3 FOR the purpose of requiring owners, lessees, and operators of certain facilities
4 involving certain hazardous materials to study and implement certain safety
5 measures on a periodic basis; requiring those persons to implement certain
6 security measures for certain facilities; requiring certain reporting of certain
7 measures to the Department of State Police and certain other State and local
8 units; providing an alternative method of compliance that the Department may
9 approve; providing for the confidentiality of certain documents; establishing
10 penalties and sanctions for certain violations of this Act; defining certain terms;
11 providing that this Act does not affect the availability of other penalties and
12 remedies; requiring the Department of State Police to adopt certain regulations
13 by a certain date in consultation with certain units; making the provisions of
14 this Act severable; and generally relating to security of controlled hazardous
15 substance facilities.

16 BY adding to

17 Article - Public Safety

18 Section 2-801 through 2-809, inclusive, to be under the new subtitle "Subtitle
19 8. Chemical Facility Security"

20 Annotated Code of Maryland

21 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2003)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Public Safety**

25 **SUBTITLE 8. CHEMICAL FACILITY SECURITY.**

26 2-801.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

1 (B) "FACILITY" MEANS A LOCATION IN WHICH A HAZARDOUS MATERIAL IS
2 STORED, DISPENSED, USED, OR HANDLED.

3 (C) "HAZARDOUS MATERIAL" MEANS:

4 (1) A REGULATED SUBSTANCE AS DEFINED IN 40 C.F.R. 68.130 IN EXCESS
5 OF THE THRESHOLD QUANTITY SPECIFIED IN THAT REGULATION; OR

6 (2) ANY OTHER HAZARDOUS MATERIAL THAT THE DEPARTMENT
7 INCLUDES IN THE SCOPE OF THIS SUBTITLE BY REGULATION.

8 (D) "LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT" HAS THE
9 MEANING STATED IN § 14-101 OF THIS ARTICLE.

10 (E) "MEMA" HAS THE MEANING STATED IN § 14-101 OF THIS ARTICLE.

11 2-802.

12 THIS SUBTITLE APPLIES TO ANY PERSON WHO OWNS, OPERATES, MAINTAINS,
13 OR CAUSES TO OPERATE OR MAINTAIN A FACILITY IN THIS STATE.

14 2-803.

15 (A) A PERSON WHO IS SUBJECT TO THIS SUBTITLE SHALL MAINTAIN, STORE,
16 AND HANDLE ALL HAZARDOUS MATERIAL IN A REASONABLY SECURE AND PRUDENT
17 MANNER IN ORDER TO PREVENT EXPOSURE OR OTHER DANGER.

18 (B) ON OR BEFORE JANUARY 1, 2005, AND AT LEAST EVERY 3 YEARS
19 THEREAFTER, IN CONSULTATION WITH THE DEPARTMENT, MEMA, AND WITH THE
20 APPROPRIATE LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT, THE
21 PERSON SUBJECT TO THIS SUBTITLE SHALL ANALYZE THE SECURITY OF THE
22 FACILITY AND SHALL IMPLEMENT IMPROVEMENTS, INCLUDING ANY CHANGES THAT
23 ARE NECESSARY TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

24 (C) THE PERSON SUBJECT TO THIS SUBTITLE SHALL INFORM THE
25 DEPARTMENT, THE LOCAL GOVERNMENT, AND APPROPRIATE STATE AND LOCAL
26 EMERGENCY RESPONSE UNITS OF ANY MEASURES TAKEN OR PLANNED TO
27 IMPLEMENT THIS SUBTITLE AT THE FACILITY.

28 (D) THE ANALYSES PREPARED UNDER SUBSECTION (B) OF THIS SECTION, THE
29 NOTIFICATIONS UNDER SUBSECTION (C) OF THIS SECTION, OR DOCUMENTS
30 PREPARED UNDER § 2-805 OF THIS SUBTITLE TO COMPLY WITH THOSE SUBSECTIONS,
31 AND THEIR SUPPORTING DOCUMENTS ARE CONFIDENTIAL AND ARE NOT PUBLIC
32 DOCUMENTS THAT MAY BE DISCLOSED WITHOUT PRIOR WRITTEN PERMISSION OF
33 THE PERSON SUBJECT TO THIS SUBTITLE IN ACCORDANCE WITH TITLE 10, SUBTITLE
34 6 OF THE STATE GOVERNMENT ARTICLE.

1 2-804.

2 A PERSON WHO IS SUBJECT TO THIS SUBTITLE SHALL:

3 (1) PROHIBIT UNAUTHORIZED ACCESS TO THE PROPERTY ON WHICH
4 THE FACILITY IS LOCATED; AND

5 (2) MONITOR THE PROPERTY, THE FACILITY, AND THE MEANS OF
6 ACCESS.

7 2-805.

8 (A) THE DEPARTMENT MAY APPROVE A NATIONAL INDUSTRY SECURITY CODE
9 OR SET OF STANDARDS FOR COMPLIANCE THIS SUBTITLE IF THE CODE OR SET OF
10 STANDARDS REQUIRES:

11 (1) PRIORITIZATION AND PERIODIC ANALYSIS, USING ACCEPTED
12 METHODOLOGIES, OF POTENTIAL SECURITY THREATS, VULNERABILITIES, AND
13 CONSEQUENCES;

14 (2) DEVELOPMENT AND IMPLEMENTATION OF SECURITY MEASURES
15 COMMENSURATE WITH RISKS;

16 (3) DOCUMENTATION OF SECURITY MANAGEMENT PROGRAMS,
17 PROCESSES, AND PROCEDURES;

18 (4) TRAINING, DRILLS, AND GUIDANCE FOR EMPLOYEES, CONTRACTORS,
19 SERVICE PROVIDERS, AND OTHERS, AS APPROPRIATE, TO ENHANCE AWARENESS AND
20 CAPABILITY;

21 (5) COMMUNICATIONS, DIALOGUE, AND EXCHANGE OF INFORMATION
22 WITH EMPLOYEES, COMMUNITIES, AND GOVERNMENT AGENCIES AND OFFICIALS;

23 (6) INTERNAL AUDITS TO ASSESS SECURITY PROGRAMS AND
24 PROCESSES AND THE IMPLEMENTATION OF CORRECTIVE MEASURES; AND

25 (7) THIRD-PARTY VERIFICATION THAT OWNERS AND OPERATORS HAVE
26 IMPLEMENTED THE PHYSICAL SECURITY MEASURES THAT HAVE BEEN IDENTIFIED
27 UNDER THE REQUIRED PERIODIC ANALYSIS OF POTENTIAL SECURITY THREATS,
28 VULNERABILITIES, AND CONSEQUENCES;

29 (B) A PERSON WHO IS SUBJECT TO THIS SUBTITLE IS DEEMED TO BE IN
30 COMPLIANCE WITH THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THIS
31 SUBTITLE IF:

32 (1) THE PERSON IMPLEMENTS A NATIONAL INDUSTRY SECURITY CODE
33 OR SET OF STANDARDS THAT IS APPROVED BY THE DEPARTMENT;

34 (2) CONSULTS WITH THE DEPARTMENT, MEMA, AND WITH THE
35 APPROPRIATE LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT IN

1 IMPLEMENTING AND REVIEWING THE IMPLEMENTATION OF THE CODE OR SET OF
2 STANDARDS IN ACCORDANCE WITH § 2-803(B) OF THIS SUBTITLE; AND

3 (3) INFORMS THE DEPARTMENT, THE LOCAL GOVERNMENT, AND
4 APPROPRIATE STATE AND LOCAL EMERGENCY RESPONSE UNITS OF MEASURES
5 TAKEN OR PLANNED IN ACCORDANCE WITH § 2-803(C) OF THIS SUBTITLE.

6 2-806.

7 (A) A PERSON WHO KNOWINGLY VIOLATES § 2-803(A) OF THIS SUBTITLE, OR A
8 MATERIAL STORAGE REGULATION ADOPTED BY THE DEPARTMENT UNDER §
9 2-809(B)(1) OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
10 SUBJECT TO:

11 (1) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$10,000; OR

12 (2) FOR A SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING \$25,000.

13 (B) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

14 2-807.

15 IN ADDITION TO THE PENALTIES UNDER THIS SUBTITLE, A CONVICTION OF A
16 VIOLATION OF THIS SUBTITLE CONSTITUTES GROUNDS TO SUSPEND, REVOKE, OR
17 DENY ANY PERMIT THAT THE DEPARTMENT OF THE ENVIRONMENT HAS GRANTED
18 OR MAY GRANT TO THE PERSON FOR A FACILITY UNDER TITLE 7 OF THE
19 ENVIRONMENT ARTICLE.

20 2-808.

21 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO LIMIT THE AVAILABILITY
22 OF ANY OTHER PENALTY OR REMEDY CONCERNING A FACILITY.

23 2-809.

24 (A) ON OR BEFORE JANUARY 1, 2004, THE DEPARTMENT SHALL ADOPT
25 REGULATIONS TO IMPLEMENT THIS SUBTITLE.

26 (B) THE REGULATIONS SHALL INCLUDE:

27 (1) DESIGNATION OF HAZARDOUS MATERIALS THAT MAY NOT BE
28 STORED ON A RAIL LINE, INCLUDING QUANTITIES AND TYPES OF HAZARDOUS
29 MATERIALS LISTED IN DIVISIONS 2.3 AND 6.1 UNDER THE UNITED STATES
30 DEPARTMENT OF TRANSPORTATION REGULATIONS, 49 C.F.R. 173.116(A) AND 173.133(A);

31 (2) TRANSFER PROCEDURES AND STORAGE TIME LIMITS FOR
32 HAZARDOUS MATERIALS THAT ARE DELIVERED BY RAIL;

33 (3) ANY ADDITIONAL HAZARDOUS MATERIALS THAT THE DEPARTMENT
34 INCLUDES IN THE SCOPE OF THIS SUBTITLE UNDER § 2-801(C) OF THIS SUBTITLE;
35 AND

1 (4) REPORTING PROCEDURES FOR PERSONS SUBJECT TO THIS
2 SUBTITLE.

3 (C) IN DEVELOPING THE REGULATIONS UNDER THIS SECTION, THE
4 DEPARTMENT SHALL CONSULT WITH MEMA AND WITH THE ASSISTANT
5 COMMISSIONER FOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION OF THE
6 DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
8 Act or the application thereof to any person or circumstance is held invalid for any
9 reason in a court of competent jurisdiction, the invalidity does not affect other
10 provisions or any other application of this Act which can be given effect without the
11 invalid provision or application, and for this purpose the provisions of this Act are
12 declared severable.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect October 1, 2003.